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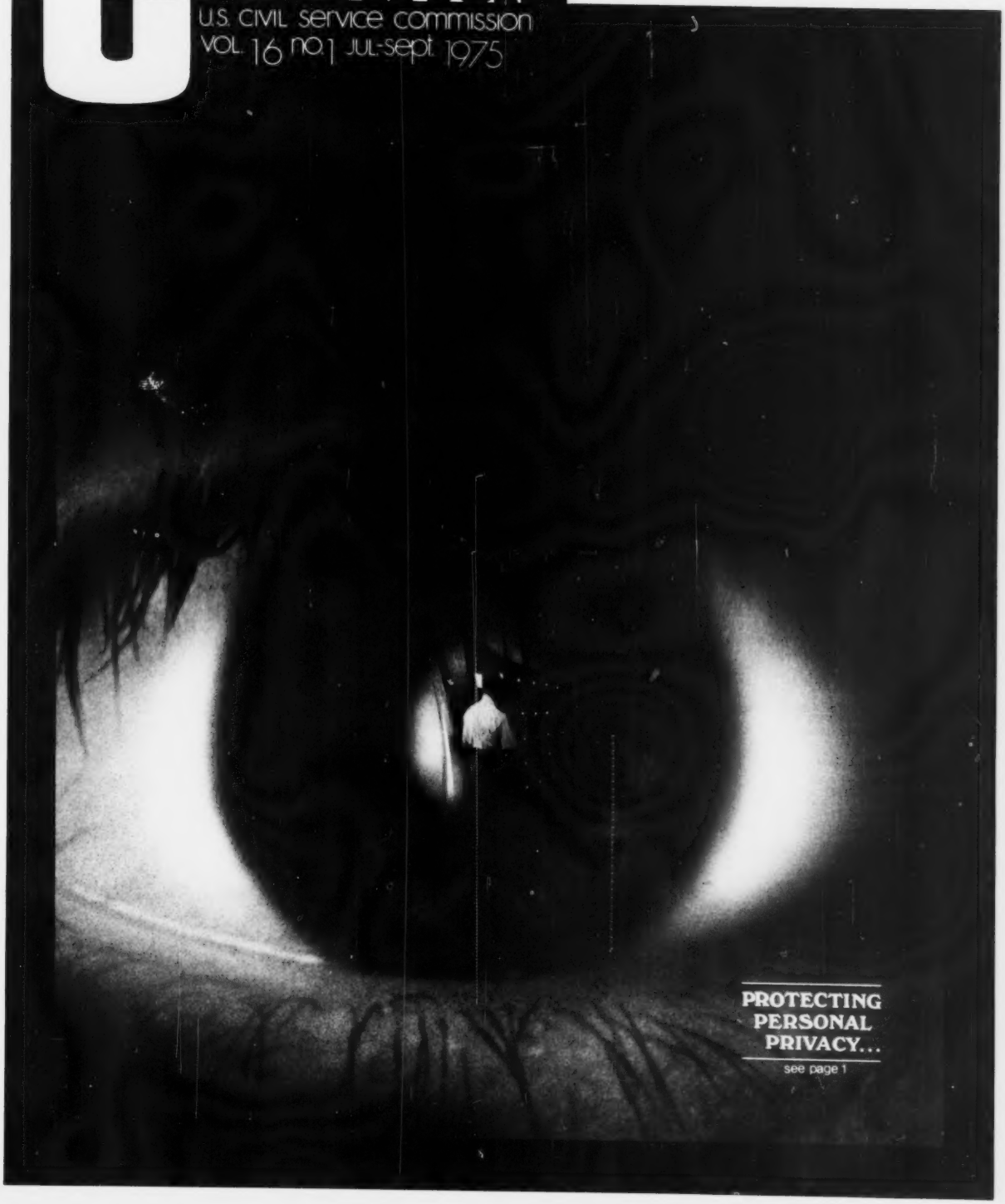

PROTECTING PERSONAL PRIVACY...

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WORTH NOTING

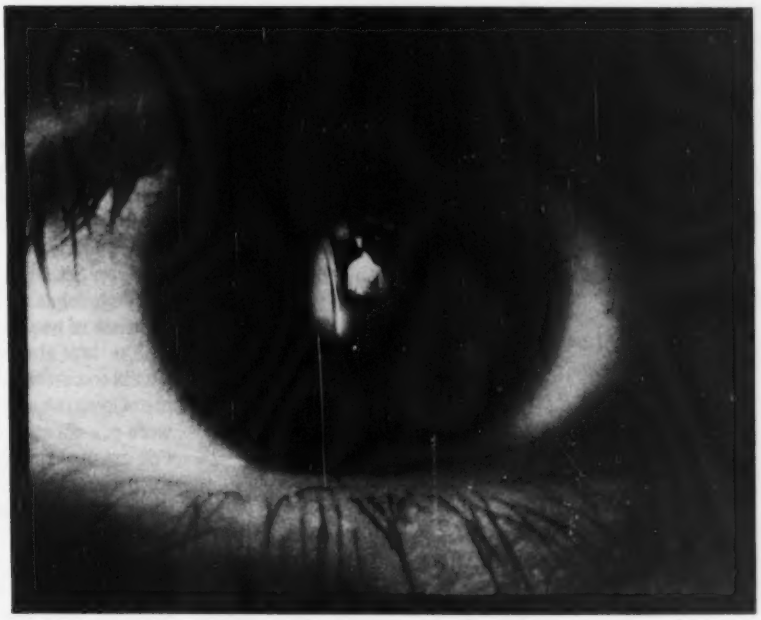
☐ PAY. President Ford's recommended "alternative plan" for a 5 percent increase in Federal pay beginning with the first pay period in October has taken effect. On September 18 the Senate voted down a resolution to disapprove the 5 percent plan, in effect endorsing the plan.

☐ FLEXIBLE WORK HOURS CONSIDERED. The Civil Service Commission has submitted a legislative proposal to permit controlled experiments with flexible and compressed work schedules in Federal agencies. The proposal would not reduce the present 40-hour workweek.

The administration's proposal would provide for a 3-year test period of alternatives to traditional work scheduling to determine what impact these schedules might have on such factors as efficiency of government operations, service to the public, mass transit facilities, and energy consumption, as well as the effect on encouraging entrance into the labor force of talented and skilled personnel, both full-time and part-time, who are unable to work standard hours.

(Continued—See Inside Back Cover)

THE PRIVACY ACT



IN DECEMBER 1974 President Ford signed into law the Privacy Act of 1974 slated to become effective September 27, 1975. This Act, which gave us files of personal information kept by Federal agencies, is intended to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to:

☐ Permit an individual to determine what records pertaining to him or her are collected, maintained, used, or disseminated;

☐ Permit an individual to prevent records . . . obtained . . . for a particular purpose from being used or made available for another purpose without his or her consent;

☐ Permit an individual to gain access to information pertaining to him or her . . . to have a copy made . . . and to correct or amend such records;

☐ Collect, maintain, use, or disseminate any record . . . in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate . . . and that adequate safeguards are provided to prevent misuse of such information;

☐ Permit exemptions . . . only in those cases where there is an important public policy need . . . determined by specific statutory authority; and

☐ Be subject to civil suit for any . . . action that violates an individual's rights.

To find out how this important new law will affect the Federal personnel system, the *Civil Service Journal* asked the following questions of Gary D. Bearden, director

of the Civil Service Commission's Bureau of Manpower Information Systems:

Journal

Does the Privacy Act of 1974 apply to Federal employees?

Bearden

Yes.

Journal

What new rights do employees have under the Privacy Act?

Bearden

Basically the Privacy Act is an extension of rights employees already have.They now have rights to access to most personnel records maintained by Federal agencies containing personal data about themselves. The Privacy Act gives this right only to the individual data subject and to no one else.

Journal

How does the Freedom of Information Act fit in with this requirement?

Bearden

The Freedom of Information Act generally protects personal data about an individual from release to others. That is, we have an exemption in the FOI for clearly unwarranted invasion of personal privacy. The Privacy Act allows individuals to request records about themselves containing personal data. It could be a single record that lists an employee's name and sex, for instance. That record is accessible. It could be a more complete record up to and including the employee's entire personnel file. Employees have had the right to review most of the documents in their Official Personnel Files for several years.

However, the law also gives employees some new rights. It gives them the right to request and receive a copy of any file or document containing information about themselves. It allows them to request a correction or amendment of any data element within a record that they feel is in error. The agency must act on that request. If it denies them the right to correct that record, then they have the right to appeal. If they lose the appeal . . . that is, if the agency doesn't agree to correct the record . . . then they have a right to file a statement with that record and the agency has to transmit that statement if it sends that record anywhere else.

Journal

Is there any provision for judicial appeal?

Bearden

Yes, employees can take the agency into court in a civil action to have the record corrected. If employees are substantially successful in their effort, the government must pay court costs and reasonable attorney fees.

Journal

Does the law provide any other new rights?

Bearden

Several. Every agency must publish a public notice on all the systems of records it maintains. Therefore there will be no "secret" data files or "secret" data systems. That notice doesn't say that employee A, B, C, or X is contained in such a file, but it is a directory in which employees can look if they wish to question whether they are, in fact, included. An agency can be taken to court for maintaining a file that it does not disclose. The courts may penalize an individual who willfully maintains such a system without notification by a fine of up to $5,000.

The law prohibits an agency from disclosures or transfers of personal information, other than for a routine use as defined in its public notice, without the consent or notification of the individual data subject involved. The law allows a person to go into court to enjoin an agency from releasing information from the file without his or her consent or without notification, and penalties may be assigned to officials or employees who willfully release this information when they are restricted from doing so. Again, a fine not to exceed $5,000.

The law also has provisions that allow employees to know, if they wish, by reading the Federal Register, what new data systems, or proposed systems, or proposed changes to old data systems an agency is contemplating because there is a required public notice in the Federal Register for such publication 30 days prior to starting a proposed new system, or substantially changing an old system. There must also be a notice to Congress and a notice to the Office of Management and Budget. So, all in all the individual employee has gained a substantial number of new rights.

The law also gives the employee access to certain files maintained by the Government as employer that were not formerly readily available. For example, appraisal of potential for promotion. In the past the Commission had left it to agency discretion whether or not they released these appraisals to an employee. Under the Privacy Act they now must be released. That is, the employee must have access to them.

Journal

What about reports of investigation?

Bearden

Employees do have a new right, which the Commission has elected to implement fully under the Freedom of Information Act rather than wait for implementation of the Privacy Act. They have access to reports of investigation regarding suitability or security or fitness for duty. Now that right is not absolute, in that they have a right to the

information contained in their file, but the Government must delete the names of witnesses and any information that would uniquely identify witnesses. Any other arrangement would destroy some of *their* privacy and would negate pledges of confidentiality given to those individuals in the past. By the way, these rights run to an applicant as well as to a current or former employee, as the privacy bill does not treat Federal employees as a class, it simply addresses the rights of *citizens*.

Journal

Are there any other gains for Federal employees under the law?

Bearden

Well, I would say they have also gained a new responsibility. In their role as Federal employees, they now have an obligation to protect the privacy of others, other Federal employees as well as other citizens whose data may be in agency files. So Federal employees are in a situation somewhat different than other citizens in that they gain a benefit and, at the same time, gain an obligation.

Journal

What are some of the problems you see in this law?

Bearden

Well, here's an example. We receive a request for information from an individual's personnel folder, but this request has been sent by the individual to his or her Congressman. The Congressman, in turn, has sent the request to us. Should we provide the information direct to the Congressman to return to the constituent or must we return the information directly to the individual, informing the Congressman that we have done so?

The Act provides for individuals to review their folders and/or if they so choose to have a person of their choice review it. And if they have sent a request to their Congressman, that request, in essence, is a delegation to the Congressman to be their personal representative. We have no problem with sending a copy of the record to the Congressman to be sent to the individual as long as when the Congressman has written us, he or she provides a copy of the letter from the employee and we have adequate assurance that the employee is requesting that the Congressman intervene or serve as the individual's representative in getting the record. In other instances, where we are not aware of that, we would send the record directly to the individual, once we were sure of his or her identity, with an information reply to the Congressman that we had done so.

Here's another situation that looks like a problem on the surface. On the transmittal of medical information and personnel records to other agency personnel offices, must we have the individual's consent? The answer to that is no. That is one of the routine uses, as defined, for the use of official personnel records, and consent is not necessary. However, when these records go outside of an agency, that is from Agency A to Agency B, a record of such disclosure or transfer must be maintained and the individual employee will have the right to request an accounting of such disclosures.

Journal

Suppose an employee wants access to his personnel folder. Where should the employee ask?

Bearden

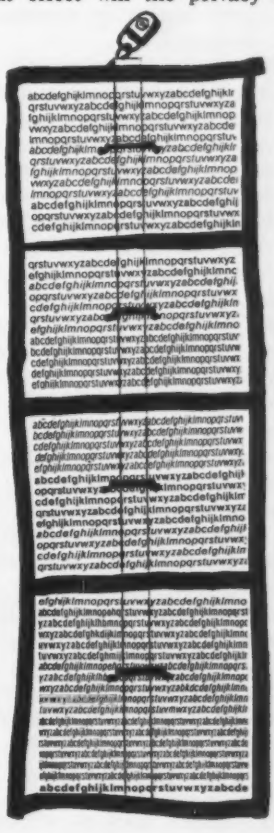
Official personnel records of employees are maintained throughout the Federal Government. Official records of current employees are not maintained at the Civil Service Commission in Washington. Employees who have questions and wish access to their records should contact their personnel office.

Former employees, retired employees, and applicants who wish to see records should direct their inquiries to the central office of the Civil Service Commission in Washington where they will be handled. Former employee records are kept in the National Archives in St. Louis. Other records may be kept by our Bureau of Retirement, Insurance, and Occupational Health.

The Commission has custodial responsibility for those records and would comply with any request of former employees, applicants, or annuitants. But for active duty Federal employees, the place to seek access to records maintained by their employing agency is their local personnel office. Personnel in that office will be fully aware of this Act and in a position to comply with their requests.

Journal

What effect will the privacy law



have on normal operations at agencies?

Bearden

I guess it's safe to say that we don't really know. We have had no practical experience. Certainly there will be costs. For example, additional costs incurred to insure privacy—locked file cabinets, special training procedures for employees handling data, the work of amending great numbers of our forms to include statements regarding privacy and rights of individuals. These will add a tremendous one-time cost—that is, the cost to get-ready. Agencies really don't know what the costs will be. We are in the process of trying to estimate these costs.

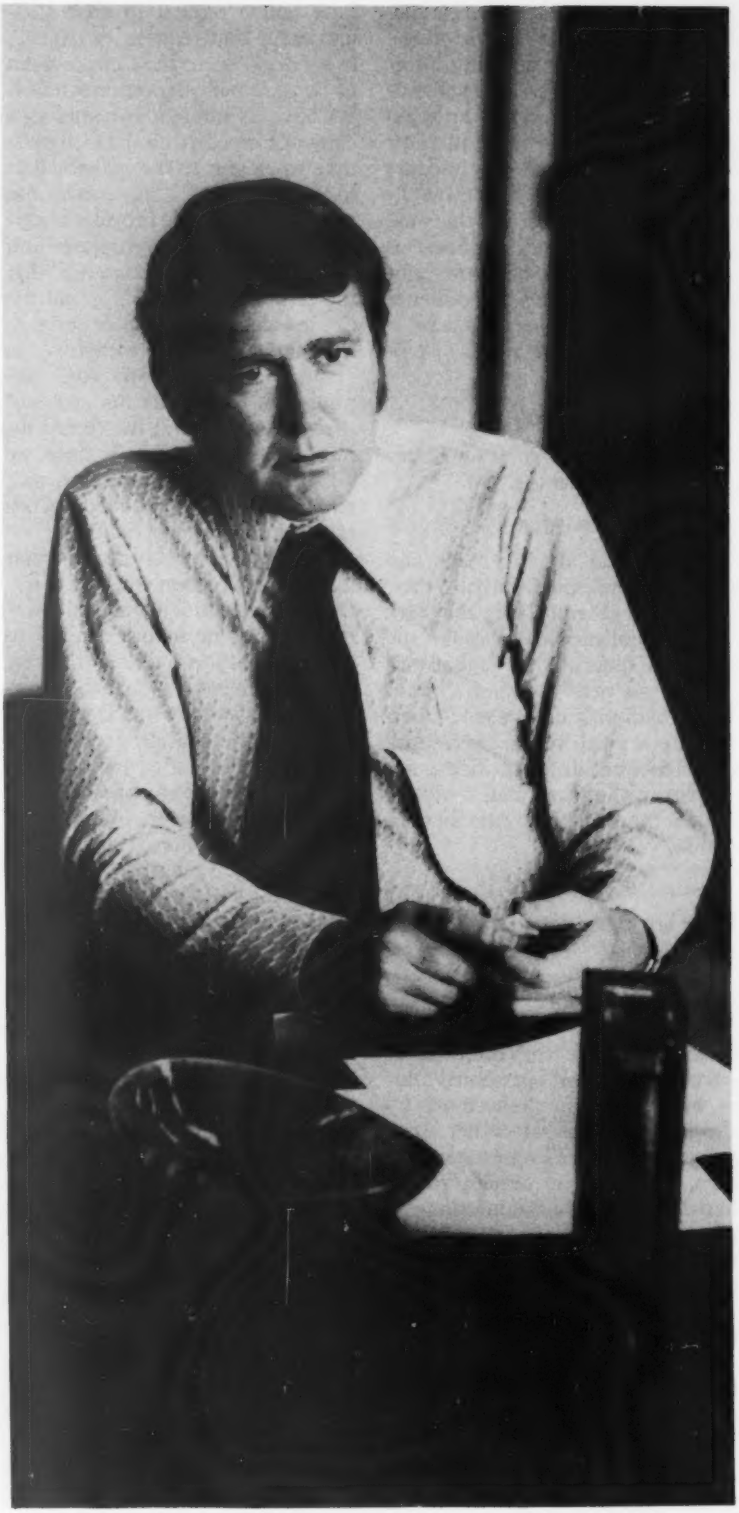
The operational cost, the continuing cost into the future, will really be a function of demand: how many employees request to see their folders or other records; how many employees request an amendment to their records.

There are a few other costs that continue to accrue, such as the requirement to keep an accounting of all disclosures. This represents a whole new recordkeeping system. Then there is the cost each year of publication in the Federal Register, the documentation requirements, and some rather more rigorous requirements for establishing a new system of records or making any changes to an old system of records. Agencies pay the cost out of their appropriations. Therefore, any additional cost for privacy will have to be considered in their annual budget and estimates submitted to the Office of Management and Budget and Congress for funds necessary to sustain the added cost required by this act.

Agencies must be in compliance with the act. So in order to handle current problems, those costs will probably be absorbed in the current fiscal year, not an uncommon situation.

Journal

What charges does an employee pay?



Bearden

There can be no charges under this act for anything other than making a copy of the record requested. No search charges, no fees for mailing or trying to find out where the record is, or for any research needed to correct or amend the record. The only thing agencies are allowed to charge for is the cost of making copies. For Federal employees and annuitants, we have elected not to charge for the first such copy. Agencies may charge, at their discretion, for any additional copies, but for an employee who requests a copy of a record contained in his personnel file, the Government will make the first such copy at no charge.

Journal

What does a Federal manager have to do as this Act goes into effect?

Bearden

All managers who use personal data must be aware of their obligations, whether they are the original collector of such data or not. If they are handling employees' personnel folders for review, they are bound by the provision of the Act regarding disclosure, regarding security and confidentiality, regarding the need to properly protect that data while in their custody from unauthorized disclosure. Since they deal with employees, since they evaluate employees, they have an obligation to insure that employees are aware of personal data that they collect and use in the management of their employees. Employees have the same rights of access to this type of personal data as they do to records maintained in the Official Personnel Folder in the personnel office.

Journal

How about private notes?

Bearden

Private notes? There are no such things as private notes in the context of official agency business. An employee's performance obviously is appraised continuously. When it is appraised, that becomes information that is recorded and may be used regarding the employee. The employee has a right to review the information and to appeal the correctness of information contained therein.

Journal

Suppose, as an employee, I make an error in disclosing personal information about an individual. What rights do I have?

Bearden

The law doesn't specifically talk about an error, it talks about willful disclosure. Willful disclosure, by usual definition, means informed. It means that you acted in a purposeful manner to disclose or not to prevent disclosure. In addition, if you knew that disclosure of the specific material was prohibited, then you might be held liable under the law. If a criminal action is taken against an employee, he or she has all the rights of due-process protection of the law as any other citizen. It would have to be shown that he or she had, in fact, acted in a knowing and willful manner before the employee would be subjected to any penalty.

Journal

Does the law apply to Federal records only?

Bearden

The Privacy Act of 1974 applies only to Federal data systems. Currently, the private data systems and State and local data systems are not regulated, at least at the Federal level. The Privacy Protection Study Commission established by the Act is chartered to conduct a study and to render a report to the Congress at the end of its 2-year life cycle. The report is to make recommendations regarding appropriate legislation in the privacy area for State and local and private business systems.

Journal

Where should employees direct questions about their records or the operation of the Privacy Act?

Bearden

Employees in the normal course of business would direct their inquiries to their agency, and if the agency is not able to answer, or answer to the employee's satisfaction, then the matter is referred either to the Civil Service Commission if it has to do with the regulations the Commission issues concerning personnel systems, or to the Office of Management and Budget if it refers to specific provisions of the Act not directly relatable to personnel systems.

Journal

Questions have come up about an individual's right to request a correction to his or her record. What does this right really mean?

Bearden

It means that if an individual employee is sustained in his or her request to correct the record, whatever action is necessary to correct the record will be taken. That is, expungement, if that is the appropriate action; insertion of the proper data element in the record; or addition of information explaining what the data may mean. All of those things necessary to correct the record are possible if the employee has a case regarding the need to correct the record.

Journal

Are all agency record systems covered by the Act?

Bearden

Agency record systems that do not contain personal data, or are not retrieved by the name of an individual or identifying particular, are not covered by the Act. That is, a property management system that contains descriptions of real property or personal property is not covered by the Act unless it also contains the name of an employee and other personal data identifying that

employee as the possessor of that property, and is retrieved by reference to his or her name.

Journal

What procedures will be used to make positive identification of individuals who request information under the Privacy Act?

Bearden

Agencies will establish various means of positive identification to determine that the person who makes a request to review a record or to receive a copy of a record is, in fact, the person he or she purports to be. The most obvious of these, of course, is identification by visual means and through the presentation of a credit card, a driver's license, or a Government employee identification card when the request is made in person at the agency's place of business.

But many individuals may not be able to present themselves to the agency personnel office, and in those instances arrangements can be made to transmit their file to an appropriate Government office in their locale where they may review their record. If that is impossible, then the agency will take steps such as requiring additional information from the employee that only the employee would know, such as the date of birth, mother's maiden name, etc., to insure proper identification, or requiring a notarized statement of identity. The level of requirement for such positive identification will be dependent upon the sensitivity of the data in question.

In all instances where positive identification is not made, the agency should insure that in their letter to the individual there is a warning about the penalty for impersonation. There are penalties under the Act for any individual who acquires data through misrepresentation, with fines up to $5,000.

Journal

What is CSC's scope of responsibility for personnel records that are required by the Federal Personnel Manual but are in the physical custody of other agencies?

Bearden

The Civil Service Commission has issued regulations regarding official personnel systems and systems of records required by the Commission under its role in personnel management. These regulations are binding on all Federal agencies. These same rules and regulations also will be issued in the Federal Personnel Manual as soon as they can be revised and incorporated therein, so that personnel officers and Federal employees can have access to them at their place of business.

Agencies are required to comply with regulations issued by the Civil Service Commission pertaining to personnel records. And while employees should go to their own personnel office to request to see their folders, the regulations under which they may see them—the regulations under which the personnel offices will operate in terms of confidentiality of records, protection, the requirements to collect or not to collect information—are as prescribed by the Civil Service Commission under its statutory authorities.

Journal

If an individual asks for his or her own record, can he or she make the request both under the Freedom of Information and Privacy Acts?

Bearden

If an individual requests to see his or her Official Personnel Folder or personnel records related to employment under either FOI or Privacy, the Commission's regulations regarding release of information from official personnel systems will be binding. Those regulations are written primarily to comply with the Privacy Act.

For all practical purposes, since the agency must comply with our regulations, it will be following those regulations developed specifically for the Privacy Act. They will not be in conflict with any requirements under the Freedom of Information Act. If the request comes in labeled as an FOI request, however, the agency official receiving it must respond affirmatively that he or she will release that record within 10 days, then give sufficient time to arrange for proper identification and an actual delivery of the record to the individual. I see no conflict, whether the request comes under FOI or the request comes under the Privacy Act.

Journal

Is it true that Commission regulations prohibit supplying lists of names for commercial purposes and commercial solicitations?

Bearden

Yes, our regulations prohibit release for commercial and/or political purposes. However, both now and under the Privacy Act, a member of the public has a right to certain information about Federal employees: name, grade, current occupation, salary, location, and prior salary. That information is available to the public on request regarding any employee or position. But lists of such information on all employees of an agency or information such as all female employees, etc., will not be available. That's the distinction.

Journal

In summary, what advice would you give Federal employees?

Bearden

Each employee should become knowledgeable about the law and his or her agency's regulations on implementation of the law. Each employee should exercise his or her rights regarding data agencies maintain, and should make a personal and professional commitment to protect the rights of others in the discharge of his or her duties. The only way this can be accomplished is for each employee to become involved—that is, knowledgeable—about his or her rights and obligations. #

APPEALS DIGEST

Reduction in Force

Retreat rights

Appellant, in a reduction in force, was changed from the position of Locomotive Engineer, WG–9, to the lower graded position of Brakeman, WG–7. Appellant contended that he had a right to "retreat" to the position of Railroad Conductor, WG–9, on the basis of the fact that he had been promoted from that position when it had been graded at WG–8. The agency had denied the appellant a right of "retreat" to this position on the ground that the current WG–9 position, being at a higher grade, was not the position from which the appellant had been promoted.

The Federal Employee Appeals Authority disagreed, for the reason that the upgrading of the position had resulted from the application of new job grading standards. Upon receipt of an advisory opinion from appropriate Commission classification experts to the effect that the current position of Railroad Conductor, WG–9, was substantially the same as the former position of Railroad Conductor, WG–8, from which appellant was promoted, the FEAA found appellant entitled to exercise a "retreat" right to the current WG–9 position. The FEAA noted that the basis for determining a "retreat" right is whether the *position* is substantially the same as the one from which the appellant was promoted; and that the right to "retreat" is not necessarily limited to positions at a grade lower than that occupied at the time of the reduction in force.

Accordingly, the agency action changing the appellant to a lower grade was reversed. *(Decision No. DA035150049.)*

Bona fides

Appellant was separated by application of reduction-in-force procedures. In his appeal to the San Francisco field office he alleged that his separation was for reasons other than reduction in force; specifically, that an amendment to his reduction-in-force notice indicated that he was being released out of order because of deficiencies in his performance.

The field office found persuasive evidence that the action was taken for other than valid reduction-in-force reasons. It was determined that the appellant's competitive area had been fragmented without proper justification immediately before the appellant's RIF, and restructured as before immediately thereafter. Furthermore, two employees with less retention standing were retained in the appellant's competitive level, purportedly to avoid "undue interruption." The basis for claiming "undue interruption", however, was the above-cited amendment that questioned the appellant's competence.

The field office cited 5 CFR 351.403(a) (CSC regulations), which states that all positions in a competitive level are interchangeable and, by definition, makes improper out-of-order retention for "undue interruption" on the basis of the ability of the incumbent of one position in a competitive level to perform the duties of the other positions.

The field office found that the extreme narrowing of the appellant's competitive area and improper out-of-order release, in themselves violations of the appellant's RIF rights, provided further and persuasive evidence in support of his contention that he was separated for reasons other than those appropriate for use of RIF procedures.

Based on the above findings, the field office reversed the agency action. *(Decision No. SF035150089.)*

Termination of Probationers

Due process

The appellant was terminated during his probationary period for pre-appointment reasons. The FEAA found that the action was accomplished in compliance with civil service regulations. On appeal to the Appeals Review Board, the appellant argued that he was entitled to a hearing to review the merits of his termination.

In its decision, the Board pointed out that the rights of a probationary employee are set forth in part 315 of the Commission's regulations. The 1-year probationary period is, as a matter of law, a trial period to determine the employee's adaptability and other characteristics necessary for full performance of the job for which employed. The probationary employee has no more than a "unilateral

expectation" of continued employment, lacking any legitimate claim of entitlement to Federal employment and with no constitutionally protected interest in Federal employment.

Citing the case of *Arnett* v. *Kennedy,* the Board stated that the regulations which determine the nature of the interest also determine the scope of the procedural guarantee to be accorded. The Board indicated that the procedural guarantees for Federal probationary employees have been examined by many courts over the years and have been found to be appropriate and sufficient to protect the interests present in such status *(Sayah* v. *U.S.,* 355 F. Supp. 1008 (C.D. Calif, 1973); *Heaphy* v. *U.S. Treasury Department,* 354 F. Supp. 396 (S.D. N.Y., 1973).

The Board concluded that the termination of the appellant in this case without a hearing is not a violation of his constitutional right to due process. The FEAA decision was affirmed. *(Decision No. RB315H50051 (CH315H50006).)*

Delivery of notice

The agency issued an employee a notice of termination during probation that was based on post-appointment reasons. The notice was not delivered to the employee until after his separation had become effective, however. The employee appealed to FEAA, and the field office held that the action was fatally defective. In its appeal to the Appeals Review Board the agency contended that delivery of notice prior to termination was not required in a termination pursuant to section 315.804 of the civil service regulations.

The ARB affirmed the FEAA decision reversing the agency action. The Board stated that the language of section 315.804 requiring written notification of separation is clearly prospective and, therefore, reflects that employees must be notified of their termination at or before the effective time of the termination, rather than after it becomes an accomplished fact. This section has consistently been interpreted by the Commission to that effect. The Board stated that, in its judgment, delivering a notice of termination to an employee after he has been separated does not comport with minimal concepts of fairness and due process, nor does it comply with the mandatory regulatory requirement of section 315.804. *(Decision No. RB315H50054 (PH315H50023).)*

Discrimination Complaints

The complainant, a non-Indian employee of the Bureau of Indian Affairs, alleged that the agency had discriminated against him on the basis of his race by failing to consider him for promotion on the ground that there were Indians available who were qualified for the position for which he had applied.

The Appeals Review Board concurred in the agency's finding that the action at issue had been taken in compliance with the Indian Reorganization Act of 1934, which provided for preferential consideration of Indians in promotion and other personnel actions. It noted further that the Supreme Court recently held that the Equal Employment Opportunity Act of 1972 did not override the preference provision of that Act, and that the Court had found that the Indian preference granted under the Act did not constitute racial discrimination. The Board therefore concluded that the complaint of discrimination did not come within the purview of part 713 of the civil service regulations. *(Decision No. RB071350421.)*

Adverse Action

The appellant appealed to the FEAA field office from his removal. The field office noted that the appellant had been employed in the excepted service, and that his appeal therefore could not be accepted unless he was entitled to veteran preference. Information submitted by the agency showed that the appellant had been a member of a reserve unit in the Armed Forces, and that he had served a 6-month tour of active duty for training purposes during 1956 and 1957. The record showed that he had not served in an active duty status for 180 consecutive days for other than training purposes, however, and that he did not have other service under conditions that would entitle him to veteran preference under the guidelines set forth in chapter 211 of the Federal Personnel Manual. The appeal, therefore, was rejected as not within the purview of part 752B.

The appellant subsequently appealed to the ARB, which affirmed the decision of the FEAA. *(Decision No. DC752B50042 (RB752B50320).)*

—Paul D. Mahoney

evolving:

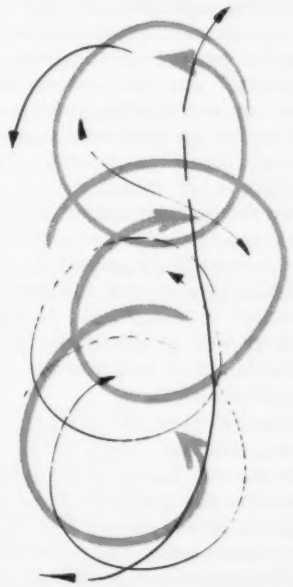
THE PERSONNEL CAREER PROGRAM

by Merle Junker
Chief,
Office, Federal Personnel
Administration Career Program
U.S. Civil Service Commission

ON THE FIRST MONDAY of each month, a group of seven people spends the afternoon working out strategies for hiring, training, making use of, and evaluating personnel people. Discussion among the members is lively and their concern for the subject at hand is evident.

Six of the group are directors of personnel of a cross section of Federal departments and agencies, the other is a bureau director with the Civil Service Commission. They are Richard Alfultis (Transportation), Ben Beeson (Army), Delbert Flint (FCC), Lloyd Grable (Navy), Wendell Mickle (CSC), Sy Pranger (Agriculture), and Raymond Sumser (NASA). They have been appointed for 2-year terms as members of the Federal Personnel Administration Career Board. Theirs is the responsibility for determining career management policy for Federal personnel professionals.

As senior representatives of the occupation, they serve as spokesmen for over 16,000 fellow personnel people throughout Government. That is, although they make full use of the experiences of their agencies, they are not there as agency representatives per se. In fact, it is sometimes remarked that what a member advocates as being wise for the profession as a whole is not completely in line with his agency's internal preferences.



Program Development

The Career Board's first formal action was issuance of FPM Letter 931–1, which set the basic policy for the program and provides a framework for its subsequent evolution. In the past year they have dealt with a wide range of issues, and have sponsored several significant program development projects:

☐ Preparation of guidelines on the development of career interns in personnel administration, which have been published in FPM Letter 931–2. The guidelines call for a broad-based introduction to the field for all career interns regardless of source (college recruitment, upward mobility, etc.) as preparation for full performance as journeyman professionals.

☐ Development of a statistical subsystem, based on the Central Personnel Data File, which will provide more detailed information than was previously available on the grade and occupational structure of the personnel profession, and on turnover, promotions, transfers, and other significant dynamics of the field. Some of the outputs are in use now; others will become available in the near future.

☐ Promulgation of an approach to assure adequate continuing intake of new entrants to the field, to meet the Government's needs for personnel services. The approach is based on a "fair share" concept under which each agency would employ and develop career interns in proportion to its size and the number of personnel people it has. Encouraging each agency to do its proportional share is important not only for fairly spreading developmental costs but for assuring diversity of backgrounds as well.

☐ Design of an assessment system specifically tailored to personnel work for use in connection with interagency referrals. The Federal Automated Career System (FACS) has information on experience, interest, and availability of personnel people (and others) as a resource for agencies in filling journeyman and middle-level vacancies. When this project is completed, referrals will be based on

registrants' skills, knowledge, and abilities, in addition to the biographical elements now available.

A small program staff provides administrative services to the Career Board, coordinates or carries out project assignments, and maintains liaison with individual agencies as they develop their programs. This office also acts as a clearinghouse for information on agency programs. The idea is to make the best possible use of expertise wherever found rather than create new organizations. The Career Board has capitalized, for instance, on the resources of the Commission's Personnel Research and Development Center to develop the assessment system, and has used an interagency task group to draft the guidance on intern training and development.

Consultation

Earlier this year the Board realized that they needed greater input from a wider sampling of the profession. They have ready access to the views of personnel directors, and of senior staff in agencies and the Commission. But members are very conscious of the fact that they also represent those at junior and journeyman levels who are not so accessible, whose careers will be affected most by the results of Career Board activities.

So it was that in the spring three of the Board met with 67 participants from a variety of agencies and locations at the annual Symposium for Federal Personnelists held in Berkeley Springs, W. Va. The freewheeling discussions were valuable in identifying priority areas of interest for Board consideration. They also served to reveal that Career Board thinking is very much in harmony with the wishes of the profession at the grassroots. Since the Symposium appears to be an ideal forum for feedback and idea exchange, it is planned for involvement to continue and to increase in future years.

Agency Orientation

The Board's focus is on the development of agency-based career programs. An underlying assumption is that agency career programs will be tailored to meet the needs, and reflect the values, of the parent agency. Each agency, of course, has its own special responsibilities, characteristics, and interests that have implications for the specific approaches to best serve its needs.

Hence the principal impact on individuals in the Federal personnel profession is through the career programs of their employing agencies. In developing or refining their programs, agencies cover the various program elements, including doctrine on how new entrants are employed and developed; how those at journeyman, intermediate, and senior levels maintain and increase their proficiency; how candidates are considered and selected for promotional or developmental opportunities; what kind of career counseling is provided; what mobility policies are followed to maximize professional development as well as effectively utilize available talent; and how the program is evaluated.

Despite obvious differences among agencies, there is at the same time sufficient commonality within the occupation to make this program both desirable and feasible. Ours is really one profession: Every agency uses personnel professionals, there are common principles involved, basic legal and regulatory guidelines apply to all agencies, and it is possible for individuals to move from one setting or function to another with relative ease.

This is not a Civil Service Commission program, but a cooperative venture, a way to collectively decide on the best application of career management techniques to the personnel profession. Not that the use of career management techniques applied to the personnel profession is anything particularly new; some agencies traditionally have had fine career programs for their personnel people. What is new is the Government-wide scope of the program.

In response to the Career Board's initiatives, substantial activity is occurring within agencies to establish or refine their personnel career programs. Agency programs are in different stages of development and are formalized to varying degrees. Most of the action to date has been in the larger agencies. Smaller agencies, particularly those with very few personnel professionals, are less likely to have such programs, but there has been Board discussion of how they may be able to participate more fully in the Government-wide program.

Why Personnel?

The desirability of a Government-wide career program stems from the vital role that personnel management plays in the Federal Government. Most organizations say that people are their most important resource. It would be a vast understatement in our case: For the most part, Government *is* its people. It follows that much of the Federal manager's job is concerned with employing the right people for the work to be done, assuring that they have the skills needed to do it, and providing an organizational and administrative environment in which they can perform effectively—that is personnel management.

Personnel management is a line function, but personnel specialists are extremely important in advising and assisting managers in carrying out their responsibilities in this area. The way personnel people do their jobs has significant impact on the productivity and effectiveness of both managers and their employees. So it is that a relatively small investment in the quality of personnel services offered can have great dividends for the agency and the Government as a whole.

Some say that career programs incorporate nothing more than principles and practices of good personnel management. This is correct. However, career programs are personnel management carried out with an occupational orientation—notwithstanding the fact that their processes occur within organizational contexts.

In addition, career management is always on a scale broader than that of an individual installation, activity, or location. In the past, career programs have embraced various occupations on a bureau-wide, commandwide, or agency-wide basis. In the case of the personnel profession it was felt that because of the common principles and procedures followed, and the portability of skills, knowledge, and abilities involved, a Government-wide program was practical and reasonable.

Are career management techniques appropriate for all occupations? The answer would have to be based on careful analyses of the characteristics and needs of each occupation separately. Thus the Career Board is not in a position to provide blanket endorsement for the use of career management techniques generally, either at the agency level or on a Government-wide scale. It is clear, however, that in using our own occupation as a test case, we are learning about the problems involved with career management on an inter-agency basis, and that this experience will be useful if other such programs should be established in the future.

Who will benefit from this program? Surely personnel people themselves will be better off as a result of these efforts. Those who are supervisors will have more candidates to consider for their vacancies, and more and better information about them. An individual interested in making a change—whether organizational or geographical—will have an improved mechanism available to obtain wider consideration for promotional or developmental opportunities.

Through better planning and the use of program standards, personnel people will have the benefit of more comprehensive professional development. Their own job satisfaction as well as that of the fellow professionals who work with them will be increased.

But all this is only a means to the larger end of continuing to provide better service to employees, supervisors, and managers at every level. Personnel people take pride in the contributions they have made to mission accomplishment, but they realize that there can never be a limit to the potential for doing their part more effectively. #

LEGAL DECISIONS

The Supreme Court—a Preview

The past term of the United States Supreme Court was an interesting one. However, while the Court issued several decisions that may have tangential effects on Commission activities, there were no cases decided directly applicable to the Commission or to Federal personnel policies and practices. Next term promises to be an entirely different matter, and the column this issue will provide a preview of what the Supreme Court will be hearing next year that will affect all of us in our day-to-day operations.

Testan v. United States

Scheduled for hearing in the fall term of 1975 is the Government's appeal from the decision of the Court of Claims in *Testan* v. *United States.* That case involved two attorneys at the Defense Supply Agency in Philadelphia who appealed their GS–13 classifications to the Commission on the ground that attorneys working for Wright-Patterson Air Force Base in Dayton, Ohio, doing identical work, were being paid at the GS–14 rate. The Commission, after considering their appeals, found that the appellants had been properly classified.

The Court of Claims held, in a split decision, that the Commission had been arbitrary and capricious in refusing to compare the appellants' jobs against those at Wright-Patterson and ordered the Commission to make such comparisons retroactive to 1970, the time that the appellants had first appealed. The court further held that if it were determined they properly should have been classified at GS–14 in 1970, they should be retroactively reclassified as of that time.

The Government appealed to the Supreme Court, which has agreed to hear the case in the coming term. On appeal, there are two issues that will be considered by the Court: (1) Does the Court of Claims have jurisdiction to hear the matter and (2) did the court act properly in ordering the Commission to compare positions at two different agencies for classification purposes.

The first issue arises from the fact that the Court of Claims, by statute, has jurisdiction over cases only where a money judgment would be payable by the United States should the plaintiff prevail. The Government has argued that traditionally an employee is entitled to only the pay of the position he

or she holds, and therefore even if it were determined that the plaintiffs had been improperly classified, no retroactive pay would be available, but only a prospective reclassification. The Court will also consider whether, under the Classification Act, the Commission may properly be ordered to compare positions. Argument should be heard on this case sometime this fall.

Mow Sun Wong v. *Hampton*

The Ninth Circuit Court of Appeals had held, in *Mow Sun Wong* v. *Hampton,* that Commission regulations excluding aliens from the Federal competitive civil service were unconstitutional. 5CFR §338.101(a)(b) allows a person to be admitted to competitive examination or given appointment "only if he is a citizen of or owes permanent allegiance to the United States." The Court of Appeals allowed the regulation to remain in effect pending Supreme Court review. Argument was heard in this matter last year. The Court did not decide the case, however, but set it down for reargument this term. No reasons were given for this action.

Brown v. *GSA*

The Supreme Court has granted certiorari in the case of *Brown* v. *GSA.* In that case the Second Circuit Court of Appeals had held that failure to comply with the 30-day filing requirement under the Equal Employment Opportunity Act of 1972, section 717(c), precluded the plaintiff from having his discrimination case heard in the district court. The Court of Appeals further held that plaintiff, who had failed to fulfill the requirements of the EEO Act, could not attempt thereafter to gain the jurisdiction of the court through the Civil Rights Act of 1866, 42 U.S.C. §1981.

In granting certiorari, the Supreme Court will be considering two questions. The Court will hear argument on whether the passage of the EEO Act of 1972 preempted all other jurisdictional statutes. The Second Circuit had held that any individual who could have brought his action under §717(c) and is precluded from doing so by his own failure to comply with the procedural requirements could not evade those requirements by bringing suit under another statute such as the 1866 Act.

In the *Brown* case, the act of discrimination had occurred prior to the effective date of §717(c), March 24, 1972, although the final agency decision had been made subsequent to that date. The Court of Appeals further held that the EEO Act was retroactive to all discrimination cases that were pending administratively at the time of the effective date of the Act, and therefore Brown could have brought his case under §717(c) and was precluded from bringing the action under any other statute.

The question of the retroactive application of the Act will not be before the Supreme Court, however. In the case of *Place* v. *Weinberger,* the Sixth Circuit had held that the Act applied only to acts of discrimination arising after its effective date. The plaintiffs in the *Place* case petitioned the Supreme Court for certiorari; however, the Department of Justice, on behalf of the Government, conceded the issue. The position of the Government now is that section 717 of the EEO Act of 1972 is retroactive to all cases of discrimination that were pending either administratively or before a court of competent jurisdiction on March 24, 1972. That issue is therefore moot and will not be considered by the Supreme Court in *Brown.*

Another Issue for the Courts

We also anticipate that another issue will reach the courts during the coming term. That issue is the proper scope and standard of review in cases alleging discrimination in Federal employment.

In *Salone* v. *United States,* the Tenth Circuit Court of Appeals held that the district court decision should be based solely on the administrative record, and that if the court feels the record needs supplementation, it should be remanded to the agency for further proceedings. The plaintiff in the *Salone* case has petitioned the Supreme Court to review that decision, but as yet no decision has been made whether the Court will hear the matter.

In *Sperling* v. *United States,* the Third Circuit Court of Appeals has taken a diametrically opposite position and held that, based on its interpretation of the statute and legislative history, every plaintiff is entitled to a complete *de novo* trial on all the issues raised regardless of the completeness of the record. The Government will petition the Supreme Court for review.

In yet a third approach, the Ninth Circuit Court of Appeals in *Chandler* v. *Johnson* has held that neither the statute nor the legislative history gives any clue as to the basis of the court's review. Therefore each district court judge must make his own determination as to the completeness of the record and whether he may make a determination solely upon that record or must hold a *de novo* trial.

Crucial to all these cases is the related question of what the record must show in order to be considered complete. The lower courts have divided on the question of whether the complainant must prove discrimination or whether the government must prove no discrimination. It is possible that the Supreme Court will be hearing all of these questions in the coming term.

—Sandra Shapiro

A VIEW OF MBO... FROM THE MIDDLE

by William L. Ginnodo
Chief, Staffing Division
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U.S. Civil Service Commission

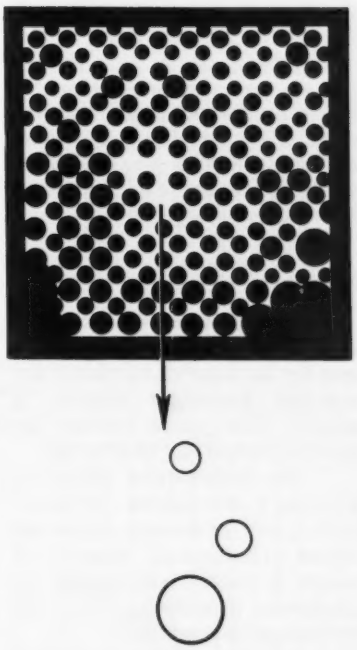
SINCE TOP MANAGEMENT is in favor of Management by Objectives, and since the literature on MBO is both plentiful and erudite, implementation should be an easy task. Right?

Wrong.

MBO consultant F.D. Barrett has put it well:

"MBO can be understood, learned, practiced, accepted, rejected. But it cannot, strictly speaking, be 'implemented' . . . . [It] is a way of managing, a style of approaching, a manner of carrying out one's managerial role. . . . MBO is an approach to one question and one question only: how to improve performance—how to get done more of the things that have to get done, the right things, and at the least cost. It is a style of management for high-achieving managers. It offers only work and hard thinking. . . ."

This article is dedicated to managers who are caught in the middle—between bosses who sincerely (or faddishly) think MBO is the way to go, and the academicians who provide theory but few examples with which we can identify. I am offering my views (1) because there are virtually no published materials available on Management by Objectives that were written by practitioners, and (2) to illustrate that MBO is an approach to managing that *can* work in a government setting if it is applied



with organizational, program, and staff realities in mind.

My credentials? Three are noteworthy here: I am a practicing middle manager, have read much of the current MBO literature, and my principal motivation is IMPROVEMENT. Aware that hectic, directionless activity was depriving me and our staffs of personal planning time and the funds needed to evaluate and insure program effectiveness, we have used MBO increasingly as our framework and tool for managing program improvement.

The Setting

Since the idea behind this article is to portray how MBO has been used in a live government setting, it is appropriate to first set the stage on which it is being played out.

Among other activities, the U.S. Civil Service Commission operates a network of 65 area offices that provide job information to the public, receive and process employment applications, and refer candidates to Federal agencies for placement. Under the Civil Service Act of 1883, we are required:

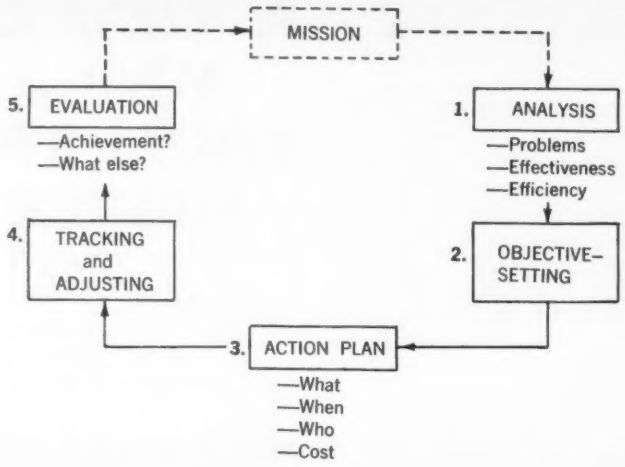
". . . as nearly as conditions of good administration warrant, [to provide] for open competitive examinations for testing applicants for appointments in the competitive service which are practical in character and as far as possible relate to matters that fairly test the relative capacity and fitness of the applicants for the appointment sought."

Because the merit system was imposed by the Congress to correct "spoils system" (political) abuses, and is today defended by many as the fairest way to insure equal employment opportunity, many individuals and organizations—includ-

ing the Congress, the General Accounting Office, the Office of Management and Budget, other Federal agencies, the National Civil Service League, "Nader's Raiders," minority groups, and courts at all levels—are looking over our shoulders to see that we do our job right. They have identified a few problems that we are trying hard to correct. Several such problems have been addressed by our MBO process and will be touched on during illustration of the process.

In the Chicago Region of the U.S. Civil Service Commission, our staffing division and seven area offices are responsible for competitive examining operations in six Midwestern States. While on the one hand we report programmatically to our parent bureau in Washington, D.C., on the other hand we are directly supervised by our regional director and his deputy. Since my division does not directly supervise area office managers and staff—and since we are expected to serve as program coordinator, evaluator, and catalyst for change—it was imperative that we enlist the cooperation of all parties as we developed and continued to implement our MBO process.

TABLE 1



The Process

After reading 45-plus books and articles on the subject (I am most convinced by George Odiorne's practical approach), I think the academicians' descriptions of Management by Objectives boil down to the points illustrated in table 1.

Although the remainder of this article provides examples from our experience illustrating that it *can* work, I must emphasize that MBO would not have been accepted or have worked if we had either oversystematized the 5-step process or ignored the valid contributions of those who are being affected by it. In our situation we found that MBO, strictly speaking, could be neither a top-down nor a bottom-up process as many academicians indicate. Without good two-way communications during each step, a general willingness to cooperate, and a flexible approach, we would have achieved very little.

Mission

With 90-plus years of tradition and history, it should have been easy for us to define succinctly our two-part functional mission. It wasn't. Our parent bureau has now performed that task for us:

☐ Job information mission—Provide a coordinated job information and recruitment system designed to inform all segments of society of Federal employment opportunities in order to attract the best available candidates.

☐ Examining and placement mission—Provide an open competitive examining and placement system based on merit principles and designed to identify and to have considered by agencies the best available people for jobs at GS–1 through GS–15 and equivalent.

Step 1: Analysis

I mentioned above that various individuals and organizations have identified merit system problems that were in apparent need of correction. Concurrently, Civil Service Commission staffs around the country have been struggling with many of the same technical questions. Our initial regional analysis of some of these issues indicated:

☐ Applicants for Federal employment want to be given specific job opportunity information rather than the traditional, general civil service announcement.

☐ Such information can be given to the public if Federal employers will provide us with short-range forecasts of anticipated vacancies.

☐ By receiving and processing only those applications that are needed to fill forecasted vacancies, we can control workloads and thereby free manpower and money for improvement work.

☐ Most of the freed resources are needed for further refinement of the job information process and for the revision or development of job-related, valid, and fully documented selection techniques that will stand the test of detailed public scrutiny.

As a result of this initial analysis, our division formulated four long-range improvement goals, two of which are:

☐ Federal Job Information Centers that (a) disseminate to the public specific and realistic information about job opportunities, based on actual agency needs; (b) provide job and career guidance, especially to veterans, handicapped persons, and minorities having the greatest need for such service; and (c) actively advise and assist Federal installations in their recruitment efforts.

☐ A shift in emphasis from application processing and referral activities to development of high-quality examining techniques and effective placement efforts.

The four improvement goals, which we believe are achievable in less than the usual 4-year period, served as discussion topics at a regionwide conference (two sessions, last September) of 64 concerned technicians, supervisors, and managers from our area offices and staffing division.

During this more detailed phase of our analysis, each of the conference's four work groups addressed a goal with the question: "What are we going to do in the Chicago Region to make recruiting and examining more effective and efficient?" By stressing *what, going to do, effective* (doing the right things), and *efficient* (doing things right), we asked for and received recommendations—34 pages of them—that were both specific and reasonably realistic.

Step 2: Objective-Setting

As formulated by the work groups, many of the staff recommendations for improvement met the CSC's internal definition of an objective:

> A specific result, product, or service toward which concentrated effort is directed within a particular time frame. Characteristically, objectives are subordinate to goals, of narrower and shorter range, have a reasonable probability of achievement, and their achievement is measurable or verifiable.

Since much of the MBO literature concentrates on this step of the process, repetition is unnecessary here. For illustrative purposes, two of our improvement objectives are included in the following section.

Step 3: Action Plan

Subsequent to the regionwide staff conference, it became obvious that most recommendations could be dealt with at the regional or area office level, and that only planned, cooperative effort would insure progress on a timely basis and within current resources. The resource consideration was important because area office workloads were exceeding estimates, and we had entered a period of governmental cost reduction during which additional funds for improvement work were unlikely.

Our division had agreed at the

TABLE 2

Objective	Responsible office and individual	Oct.	Nov.	Dec.	Jan.	Feb.	Comment
7. A system, usable by any of the region's area offices, for improving the accuracy of agency new hire estimates.	Milwaukee (Belluzzo and Freeman)						CARE—S1–I 1, 2, 3; IV analysis CARE—S2–VI A2, B1
a. Initiate development by 10/7. b. Draft format, procedures, and letter to AO's by 10/25. c. Comments to lead AO by 11/8. d. Final recommendations to SD by 11/22. e. Published in MAR Guide Supplement by 12/6.							System development should include: —Study of reasons for inaccuracies. —Establishing accuracy criteria. —Format for comparing agency forecasts with actual hires. —A model quarterly letter to agencies displaying differences.
10. A model handout that directs the public to FJIC's for job information.	Dayton (O'Donnell)						CARE—S1–III analysis CARE—S2–III analysis MAR Guide, pages 8, 11, 12
a. Initiate development by 10/1. b. Draft to AO's by 10/21. c. Comments to lead AO by 11/7. d. Recommended text to SD by 11/21. e. Published in MAR Guide by 12/5.							Tells how to obtain Federal job information: FJIC/WATS addresses, telephone numbers; what to ask or say when inquiring; kind of information available. Intended as a "bridge" for distant or reticent publics. Should be low cost but attractive, and be written at 8th grade Fog Index level. Each AO will print its own handout.

conference to initiate four action plans; work on the first has been essentially completed. As an illustration of this step in the MBO process, table 2 shows excerpts from that plan, which encompasses 28 recommendations from the staff conference (acronym: CARE) and consists of 12 improvement objectives.

The action plan was sent as a draft to all area offices, requesting their suggestions, participation, and designation of a project manager and milestone dates under each objective for which they had responsibility. Costs for achieving each objective were not computed at this point because there was general agreement about their priority, value, and general time frame.

Step 4: Tracking and Adjusting

For this particular action plan, both the oversight-tracking and monitoring of adjustments were done by a senior staff member of my division. All seven area offices contributed to the developmental efforts under each objective. The milestone dates served as a workload planning guide for all offices and as self-imposed checkpoints for the tracking of individual area office progress.

Of particular importance is the interaction that occurred between the area office manager and the employee responsible for an objective. Their earlier involvement in the objective-setting, and periodic one-on-one reviews, insured that progress was being achieved, necessary support was provided, and appropriate adjustments were made.

Due to unforeseen circumstances (for example, increased inquiry and application processing workloads brought on by higher unemployment), many milestone dates were necessarily "slipped," and only 10 of the 12 objectives have been substantially achieved. I use the word "substantially" because even though some of the objectives were modified or deferred along the way, the overall intent of the action plan has been carried out: Six of the seven offices are now using the cooperatively developed techniques—well ahead of what would have been possible without the action plan—and the seventh intends to use them soon.

Also, the techniques were developed as models and have been adapted by most offices to meet local needs. A recent review of production and spending data indicated that we are beginning to receive some of the hoped-for payoff from the changes effected by the action plan.

Step 5: Evaluation

Our planning and budgeting for Fiscal Year 1976 meant that it was time to evaluate our progress toward the four long-range improvement goals and achievement on all subordinate objectives. This step necessarily overlapped a review of our mission and step 1, analysis, since many program changes, new problems, and central office emphases surfaced during the preceding year. As a result, our goals may be redefined, and we will undoubtedly set new objectives that will move us another few steps closer to goal attainment.

Budgeting Improvements

How do we plan to sustain and fund a similar minimum level of improvement activity? In one of his recent articles on MBO in the Federal Government, Dr. Chester A. Newland, Director of CSC's Federal Executive Institute in Charlottesville, Va., stated: "If MBO is to become a line management process, it may serve well as an approach to control of programs, but the essential task will remain to link it to the budget process."

There is apparent agreement among our area managers that by coordinating and sharing improvement work beneficial to all, more will be accomplished quickly and costs can be kept to a reasonable minimum. This is necessary in order to avoid adversely depleting the resources needed for on-going production work.

An analysis of our expenditures over the past several years indicates that approximately 7 percent of our total program budget has been spent on improvement work. We developed, therefore, a model funds distribution pattern for Fiscal Year 1976 planning and budgeting. Table 3 is a simplified version of that pattern.

We assume that a funds distribution pattern such as this can be used for the planning of production and improvement work on less than an annual basis, such as quarterly. If so, two MBO action plan approaches are feasible and can operate concurrently: (1) an action plan geared to achievement of a specific objective or grouping of interrelated objectives; and (2) an annual or quarterly program plan that marries production and improvement objective-setting with budgeting. The 5-step process appears applicable to both types.

We are uncertain at this time whether our funds distribution pattern will effectively link planning, budgeting, and tracking in our case. I for one, however, agree with Dr. Newland's thesis that if the basic management task is to achieve results, then MBO or an equivalent technique *must* become a line management process.

Conclusion

Most of the literature says that it

TABLE 3

	Production and maintenance (%)	Improvement objectives (%)	Total percentage (%)
1. Answering inquiries	37.4	2.2	39.6
2. Conducting tests	17.6	0.9	18.5
3. Processing applications	20.4	1.1	21.5
4. Placement	17.6	2.8	20.4
	93.0%	7.0%	100.0%

takes 3 to 5 years for MBO to become fully operational in an organization. Why? From our experience, I conclude that it takes that long to tailor the process to the organizational-financial-personnel-program configuration within which it must function.

Looking at our effort in terms of developmental phases, I would say that we have completed phase 1, setting the stage for improvement and systematic objective-setting, and have a reasonable start on phase 2, integration of the MBO process with budgeting and reporting (including the prioritizing of objectives). We have only just begun to consider phase 3 questions regarding practical MBO linkages with performance evaluation, accountability, productivity, and program effectiveness measurement.

There are insufficient statistical data now to document my conviction that our operations and staff members are more efficient and effective than they were 6 months or a year ago. But empirical data, derived from on-site evaluations and staff comments, indicate that we *are* (1) providing specific job opportunity information to the public, (2) controlling our workloads, and (3) undertaking more improvement projects than in the past—all without additional funding.

As we have seen, concrete results can be achieved early in the 3- to 5-year developmental period, which in turn stimulate further refinements and broad acceptance of MBO as a framework and tool for managing change.

Former Health, Education, and Welfare Secretary John W. Gardner once wrote:

"Continuous renewal depends on conditions that encourage fulfillment of the individual. . . . Every individual, organization, or society must mature, but much depends on how this maturing takes place. A society whose maturing consists simply of acquiring more firmly established ways of doing things is headed for the graveyard —even if it learns to do these things with greater and greater skill. *In the ever-renewing society what matures is a system or framework within which continuous innovation, renewal, and rebirth can occur.*"

It is my view that Management by Objectives can serve as that framework. #

PERSONNEL RESEARCH ROUNDUP

Computer-Administered Tests

Dramatic changes in the Civil Service Commission's testing procedures are possible within the next few years as a result of current research by Commission staff in the field of tailored testing. Advancing computer technology now allows the practical application of new statistical procedures for personnel measurement by means of the tailored test.

The theoretical and mathematical bases for the statistical procedures applicable to civil service testing are being developed in the Commission's Personnel Research and Development Center. Changes in testing procedure will result that could affect job applicants who take the tests, personnel specialists who administer the examining program, and agencies that use the test results.

The Commission's leadership in research in this area was demonstrated at the Conference on Computerized Adaptive Testing held in June. This conference, the first of its kind, was co-sponsored by the Personnel Research and Development Center and the Office of Naval Research. It assembled 63 experts from organizations in the United States and Europe.

Although the most noticeable change in the new method of testing is the fact that the test is administered by computer, the essential difference between this method and the older one is that in the new system each applicant will answer a special set of test questions "tailored" to his or her ability. Numerous studies have demonstrated that a person's ability is measured most accurately when the difficulty of the questions he or she answers is such that there is about a 50 percent chance of answering correctly.

Tailored testing is a way of allowing those tested to answer only those questions that are suited to their individual ability. This contrasts with conventional group testing procedures wherein many people must

spend time on questions that are either too easy or too hard.

Here is the way the system works: The person to be tested is seated at a television-like screen. A question appears on the screen, and the person indicates the answer on a keyboard. If the answer given is correct, the next question will be more difficult; if the answer given is not correct, an easier question will follow. With each response, the computer makes a revised estimate of the examinee's ability; each revised estimate becomes more accurate. The test is finished when the estimate reaches a specified level of accuracy.

Computer-assisted tailored testing can have major benefits, both in efficiency and test quality. A test can be taken at any time; no examiner time or special scheduling is needed. The examination time will be shorter; a single ability can be tested with 10-15 questions; several abilities can be tested in the time it now takes for one.

To job applicants, use of the new method can mean:

☐ Walk-in testing, available anywhere a computer terminal can be installed (in a university job placement center, for instance).

☐ Shortened testing time, even though there will be no time limit on answering each question, since fewer questions will be necessary.

☐ Immediate report on test scores, weighted for relevance to various occupations and related to the current availability of jobs.

To personnel specialists administering the examination, the advantages can be:

☐ Standardized administration, avoiding the possible bias caused by differences in test administrators.

☐ Lower risk of compromised examinations since tests will not be printed, and different examinees will receive different sequences of questions.

☐ Improved scheduling of examinations for large numbers of candidates.

☐ Improved precision in measurement since the acceptable level of accuracy can be specified in advance.

Agencies using the examination results can benefit from:

☐ Access to a vast data network that will improve the quality of personnel decisions.

☐ Rapid availability of information, allowing timely decisions, so that Federal employers will be able to compete successfully for the top-level applicants who normally have several offers to consider.

☐ Increased sophistication of statistical results, so that employers can array applicants across a large number of jobs and select in terms of priority.

☐ Improvement in the quality of appointees that necessarily results from a more accurate and job-related selection process.

There is one important technical concern with computer-assisted testing: Test questions must be very, very good. Only one in three questions commonly used in conventional testing is satisfactory for tailored testing. A strong resource in this area has been the pool of test questions that had been developed in the Personnel Research and Development Center over a period of many years. From this pool adequate item banks for storage in the computer have been developed in two abilities areas, and it appears that sufficient numbers of questions will be available in other areas as well.

Pilot testing on-line with the computer is now underway, and a demonstration of the procedure for computer-assisted testing has been prepared for viewing by interested managerial staff. The Commission is well enough along in the research and development necessary to make full implementation possible as early as 1980. The process is more advanced than in any other organization interested in the field, and will place the Civil Service Commission in the forefront of all users and administrators of personnel tests.

—Cynthia L. Clark and Vern W. Urry

CSC photo

after four years:

OBSERVATIONS ON THE INTERGOVERNMENTAL PERSONNEL ACT

by Verlon K. Vrana
Director, Personnel Division
Soil Conservation Service
U.S. Department of Agriculture

UNDER PROVISIONS of the Intergovernmental Personnel Act, Federal agencies can assign employees to State, county, and local governments and to universities on a temporary basis. The IPA also defines conditions under which Federal agencies can receive State, county, local, and university personnel on temporary assignment. This is the story of one agency's experience with such intergovernmental personnel assignments.

Since 1970 the Soil Conservation Service of the U.S. Department of Agriculture has participated in IPA both by assigning and by being assigned personnel. More than 150 SCS employees have been employed temporarily by agencies of other levels of government.

Montana Department of State Lands

The Montana Department of State Lands was recently given the responsibility of reviewing reclamation plans submitted by mining companies and then approving or disapproving strip mine operations. When technical expertise in revegetation of strip mine areas was needed by DSL, an SCS plant materials specialist, Ashley Thornburg, was detailed to the Department for 15 months on a part-time basis. After the IPA agreement was completed, a second plant materials specialist, James A. Olsen, was detailed to the Department full time under a second IPA agreement.

Theodore Schwinden, Commissioner of State Lands, explains, "IPA offered an opportunity to pick up available expertise at the Federal level with less cost and more experience than we could have found on the job market. Although we've been completely delighted to have both men aboard, having Mr. Olsen with us full time is particularly helpful; this allows him to involve himself in State problems in real depth."

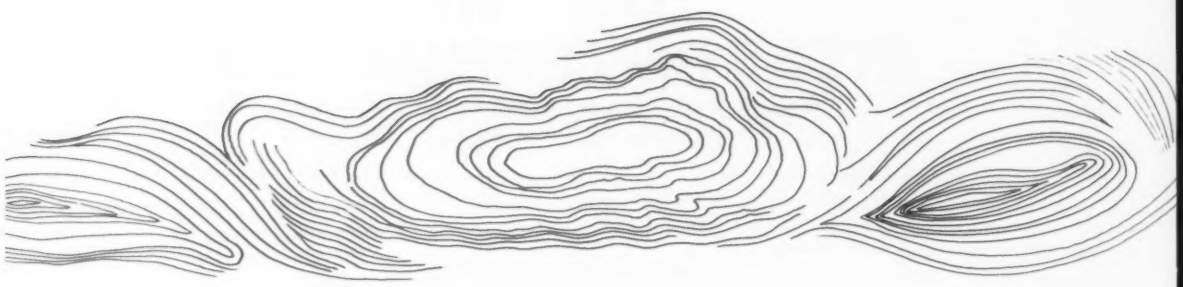
Besides accelerating the rate at which the Department could approve mining company plans, the IPA assignments improved SCS-DSL relations tremendously. "These contacts made reclamation work much easier," reports Thornburg, "since SCS would have been involved anyway through requests from mining companies for assistance in the initial planning. I think the IPA assignment probably helped the Service as much as the State."

Commissioner Schwinden sees a two-way benefit: "The entire field of reclamation in the West is brand-new. Both Mr. Thornburg and Mr. Olsen assisted us immensely in developing our program. On the Federal side, as the Federal Government moves more toward programs in strip-mine reclamation, these men will have already had practical experience in existing State programs like our own."

Tennessee Department of Public Health

When the Tennessee legislature charged the State Department of Public Health with developing regulations for individual sewage disposal, the Department wanted to use soils data to determine which areas would successfully accommodate subsurface sewage disposal.

SCS soil scientist Charles Powers was assigned to the Department's Environmental Sanitation and Solid Waste Division. Division Director James Ault comments, "The type of person we wanted could not have been ob-



tained at a State salary, and SCS is about the only place where we could get a trained soil scientist."

Powers helped to write the new regulations, which were adopted by the legislature in July 1974, and then trained local health department personnel in their use. He also advised the State on some technically difficult problems, and was a convenient liaison between the State department and the State office of SCS.

Most developments in Tennessee are based on subsurface sewage disposal systems, so the new regulations will have a major beneficial impact on the Tennessee environment. At the same time, the increased use of soil survey information benefits the Soil Conservation Service. Mr. Powers' personal reaction to the assignment is very positive: "I gained knowledge of how to work with people on other governmental levels, and I gained scientific and technical knowledge by working with biologists and other specialists."

Purdue University

SCS soil scientist Richard H. Gilbert is completing a 2-year IPA assignment to Purdue University, as project manager of a NASA-grant project to deliver remote sensing satellite data to user agencies within Indiana. Data collected from satellite have applications for a wide range of resource needs, including soil surveys, land use inventories, strip mine problems, and evaluations of thermal pollution of water systems.

When assigned to the project, Gilbert had a background including photo interpretation and photogrammetry, but no practical experience in satellite sensing. He had worked for many years with the agencies with which the project would have to be coordinated.

The work has benefited the State of Indiana by building a data base for planning efforts, and could greatly assist SCS by adding remote sensing as a tool in the agency's soil surveying program.

The assignment has also benefited Gilbert: "It's given me a chance to have management responsibilities, and to be at an academic center where there is a different slant on things."

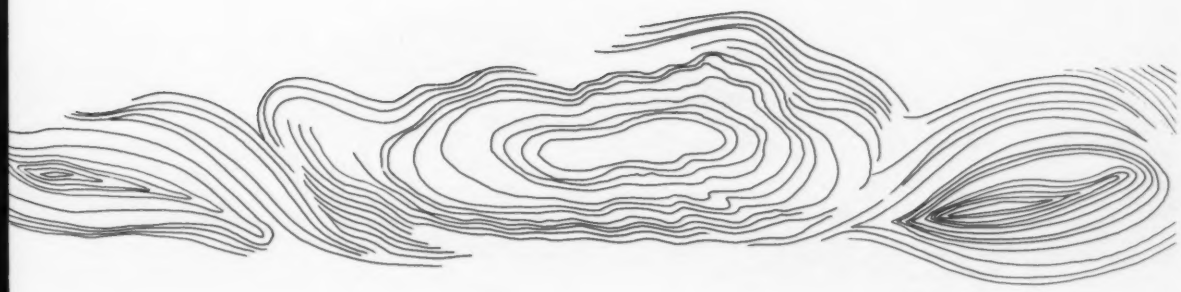
M.F. Bumgardner, Program Leader of the Earth Sciences Research Program at Purdue, considers it "particularly rewarding to have valuable inputs from a soil scientist who has many years of field experience with the Soil Conservation Service. He has done a marvelous job in educating appropriate groups in State and local government to the potential applications of remote sensing in resource management."

Alaska Department of Natural Resources

When the Alaska legislature directed the Alaska Department of Natural Resources to set up a plant materials center in the Matanuska Valley to develop new plant materials for "agriculture, industry, and conservation," the Department used IPA to get an experienced plant center manager.

Plant materials specialist James R. Stroh, who had been manager of an SCS plant materials center in Montana, was assigned as manager of the new State center. His primary responsibilities are establishment of the physical facilities for the center, development of the plant testing and development program, projection of that program over a 10-year period, and training of a professional State staff to carry out the program.

The center will develop seed stock of improved varieties of plants for use in Alaska. Every species of native Alaskan plant other than mosses, lichens, and algae is eligible for inclusion in the program; and selective species not native to Alaska are being included, with particular emphasis on plants from Canada, Scandi-



navia, and the Soviet Union.

The IPA assignment benefits the Alaska DNR by providing expertise in plant materials center operations and development, the avoidance of major pitfalls in procurement, budgeting, and organization, and by providing training for the new staff.

At the same time, SCS in Alaska will gain through the center an adequate supply of plant materials for conservation work.

Twin Cities Metropolitan Council

The Twin Cities Metropolitan Council is a regional commission charged with developing a comprehensive plan for the Minneapolis-St. Paul area of Minnesota.

"We needed short-term, very technical help in relating soils to urban development," explains the Council's Director of Environmental Planning, Frank Lamm. "We're basically a planning organization, and we have very few specialists in the physical disciplines. At the same time, the Soil Conservation Service was increasing its emphasis on soils for urban uses, so there was a real possibility of mutual benefit from an IPA agreement."

Under IPA, the SCS assigned soils expert Raymond T. Diedrick to work for the Metro Council. He reviewed all available technical soils information and compiled this into one document, using nontechnical language and a form that could readily be understood by planners and developers in the region. He also applied his soil expertise to project referrals from towns in the region, and he prepared several other guides and maps relating soils to land use. "He developed a septic tank/soils analysis that has been extremely helpful to the staff in understanding what types of soils can result in septic tank problems and why," reports Lamm.

Diedrick thinks the assignment also helped him as a Federal employee. "It has rounded out my experience in dealing with land use. Being on the Council staff broadened my outlook on things that have to be considered in land use planning. From SCS's standpoint, SCS and USDA have benefited by having their technical expertise known to the Council and to the planners."

City of Raleigh

In order to prevent improper development of its extensive woodlands and open lands, the City of Raleigh, N.C., passed a Sedimentation and Soil Erosion Control Ordinance, under which developers would need to control soil erosion and storm water runoff.

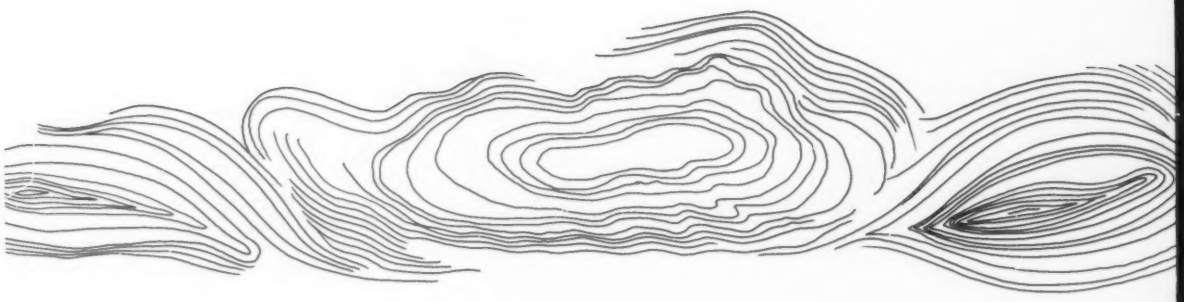
Enforcing the ordinance presented the city with several problems. The city needed engineering standards and specifications for soil erosion control, and also needed a trained staff of conservationists to enforce those standards.

Utilizing the IPA, Raleigh was assigned an SCS engineer, George Murrell, whose job was to set up a municipal Soil Conservation Section, to train the six new city employees in that section, and to develop engineering standards for soil conservation on construction sites.

Robert Dominick, Personnel Director for Raleigh, reports that as a result of the IPA "the city now has a working soil conservation and erosion control ordinance which has reduced the hazards of flooding in some areas." He adds, "We've reduced the erosion of soil from construction sites into developed areas, and have delineated floodplain areas which, in the future, the city might purchase for greenways."

Wisconsin Department of Natural Resources

Russell Pope, a senior water resource planner with the Wisconsin Department of Natural Re-



sources, was assigned to SCS to work on the Wisconsin River Basin Study. The assignment, which began last December, typifies how SCS is helped by being assigned personnel under the IPA.

Pope communicates to SCS the desires of Wisconsin State agencies concerning the river basin study, and can help SCS collect information by locating data already obtained by the State. For example, the Wisconsin Department of Natural Resources had been mapping shoreland use and access; SCS learned of this work through Pope, and the DNR mapping supplemented SCS evaluations of recreation potential.

In the Wisconsin River study, SCS carries out sediment studies at selected sites; through Pope's coordination, SCS also will take water samples at these sites, and DNR will analyze the samples in its laboratory for various parameters of interest to biologists from both agencies.

Although Pope concentrates on the Wisconsin River study, other aspects of SCS work will also benefit, and DNR expects that the assignment will help both agencies in other parts of the State as well.

General Observations

The work of the Soil Conservation Service certainly does not encompass the full range of activity under the Intergovernmental Personnel Act. In particular, SCS assignments are almost without exception in the field of science and engineering, while IPA also allows assignments for "core management" skills. The following observations, however, do reflect the experience of more than 150 SCS employees participating in the program.

Benefits. Almost without exception, IPA assignments have benefited both the assigned agency and the assigning agency, as well as the employee. Obviously this is due in part to sound administration. Applications are screened to determine whether there is a high probability of mutual benefit. Assignments that would clearly benefit only one party to the IPA contract are avoided.

Nevertheless, personnel assignments that cross government lines do seem to have an inherent tendency to be mutually beneficial. There are three common areas of benefits:

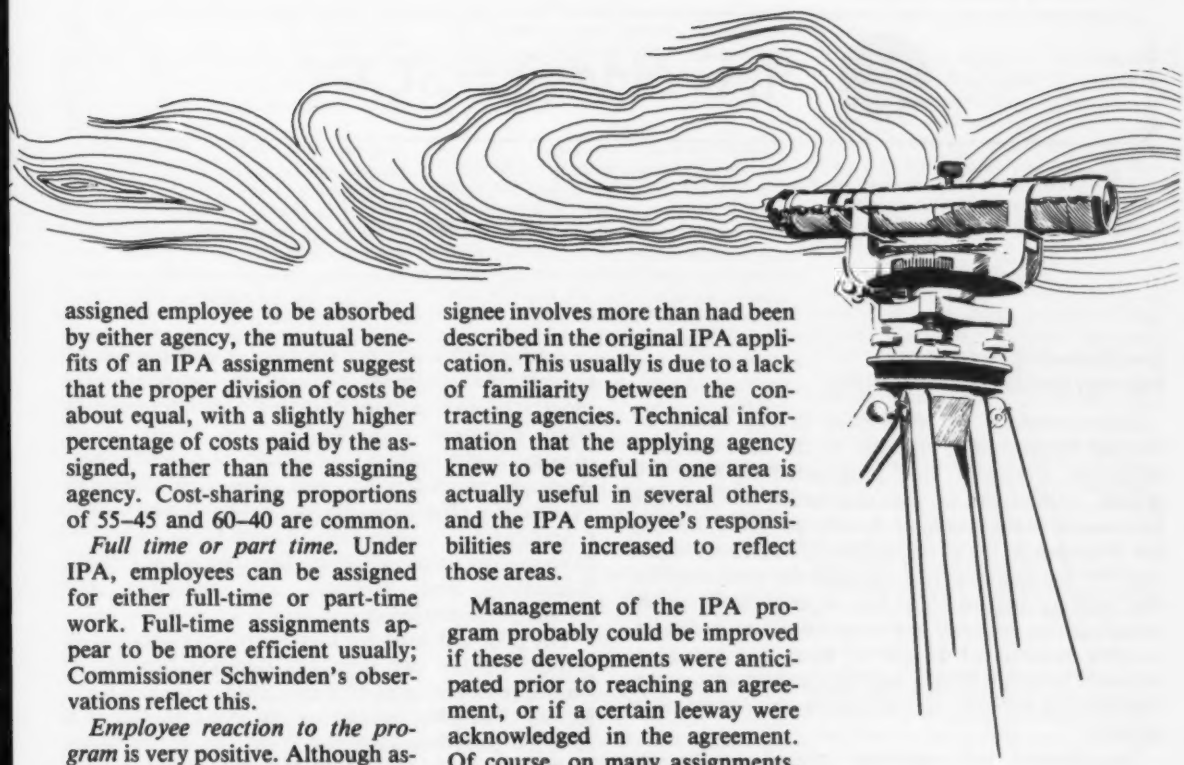
First, acquisition of technical information. Not only does the assigned agency receive technical expertise, but often, as in the case of Charles Powers in Tennessee, the employee gains technical information (often of other disciplines) that is brought back to the assigning agency after the conclusion of the IPA assignment.

Second, access to, and familiarity with programs. This also benefits both parties. While assigned to the Tennessee Department of Public Health, Powers served as a liaison between the Department and the State office of SCS. Returning to SCS after the assignment, Powers still serves as a liaison between the groups. The personal contacts developed in the course of IPA assignments have proved quite valuable in sound interagency and intergovernmental relations.

Third, program accomplishments. Achievement of the goals of an IPA assignment should benefit the mutual programs of both agencies involved. The revegetation of strip-mined land in Montana or the control of soil erosion in Raleigh is of as much interest to the Soil Conservation Service as it is to Montana or Raleigh. The successful operation of a State plant materials center in Alaska will provide SCS with materials it needs for conservation work.

With proper administration, IPA can improve the efficiency and effectiveness of the programs of both parties to the agreement.

Cost-sharing. Although IPA permits the entire salary cost of the



assigned employee to be absorbed by either agency, the mutual benefits of an IPA assignment suggest that the proper division of costs be about equal, with a slightly higher percentage of costs paid by the assigned, rather than the assigning agency. Cost-sharing proportions of 55–45 and 60–40 are common.

Full time or part time. Under IPA, employees can be assigned for either full-time or part-time work. Full-time assignments appear to be more efficient usually; Commissioner Schwinden's observations reflect this.

Employee reaction to the program is very positive. Although assignments are often difficult and require duties quite different from those normally exercised, employees almost without exception consider the work they've done under IPA to be challenging, publicly valuable, and personally satisfying.

Simplicity of agreements. The IPA program is enhanced by the simplicity of the mechanics of the agreement. The agreement is a short 3-page form, and once the major decisions are made on cost-sharing, equipment, etc., it can be completed in minutes. The only signatures needed are those of the employee and representatives of the local and Federal agencies.

Assignments often exceed application job descriptions. Often the work actually done by an IPA assignee involves more than had been described in the original IPA application. This usually is due to a lack of familiarity between the contracting agencies. Technical information that the applying agency knew to be useful in one area is actually useful in several others, and the IPA employee's responsibilities are increased to reflect those areas.

Management of the IPA program probably could be improved if these developments were anticipated prior to reaching an agreement, or if a certain leeway were acknowledged in the agreement. Of course, on many assignments, such as that of James Stroh as manager of the Alaska plant materials center, the responsibilities and work involved are quite clear.

Levels of government. Most SCS assignments under the program are for work at the State or county level. Assignments for regional, municipal, and university work have also been very successful, however, as have assignments to the SCS from other levels of government and universities.

All in all, the Soil Conservation Service has found that the Intergovernmental Personnel Act allows assignments between governmental levels that benefit the assigning agency, the assigned agency, the assignee as a public employee, and the general public. #

THE AWARDS STORY

Cost Reductions Through Employee Contributions

Demonstrating his confidence in the ability of Federal employees to respond to the need for cost reduction, President Ford announced on May 6 a special campaign to be conducted within the framework of the Incentive Awards program. During the Presidential Cost Reduction Campaign, which runs for the remainder of the calendar year, civilian and military personnel whose suggestions or other contributions beyond job responsibilities result in tangible benefits of $5,000 or more will receive a personal letter of thanks and appreciation from the President in addition to any award granted by their agency.

Departments and agencies moved swiftly to implement the cost reduction campaign. Within the first 3 months following the President's May 6 announcement, 45 nominations for Presidential recognition had been received, involving 59 civilian and military personnel and almost $3 million in tangible benefits.

To assist in promoting and publicizing the campaign, the Civil Service Commission has prepared two promotional posters and an employee flyer.

Recent Happenings in the Awards Area

A recently completed survey of honorary awards granted by Federal agencies reveals that of the 62 agencies surveyed 57 percent use medals for their highest honorary award, 18 percent use certificates, 15 percent use plaques, and 10 percent use other forms of recognition. The agency head is approving authority for the highest honor award in 79 percent of the agencies surveyed, with approval authority divided almost equally between awards committee or other officials among those remaining.

A year-long voluntary pilot test is underway in six agencies to determine whether an increase in the amount of awards paid for tangible benefits resulting from employee contributions will result in an increase in the number and quality of contributions. Agencies participating are the Environmental Protection Agency, Federal Communications Commission, General Accounting Office, Government Printing Office, Department of Health, Education, and Welfare, and Securities and Exchange Commission.

The pilot test scale permits awards payments of 10 percent of the net first-year tangible benefits to employees whose contributions result in savings up to $5,000. Tangible benefits of $5,000-$100,000 will earn the employee $500 plus 3 percent of the excess savings over $5,000; and tangible benefits over $100,000 will earn $3,350 plus 1 percent of the excess savings over $100,000, up to a maximum award of $25,000. Results will be reviewed at the end of FY 1976 to determine whether the higher scale for tangible benefits should be offered as guidance in FPM Chapter 451.

Wider recognition for selected employee achievements will be given in the future in the National Capital area through *The Washington Post.* A new supplement called "The Weekly," which emphasizes local people, their work, their activities and accomplishments, features stories about significant achievements of career employees, particularly those whose work has had far-reaching and lasting impact and those who, in pursuit of their duties, encountered physical danger and performed with unusual distinction. Agencies have been asked to report outstanding employee achievements to the *Post.*

—Edith A. Stringer

WORTH NOTING (CONT.)

Within the last few years, an increasing number of organizations in Switzerland, West Germany, and other countries in Western Europe have introduced flexible methods of scheduling work. It is estimated that in Switzerland 40 percent of the work force is under some form of flexible work schedule. More limited experimentation has begun in Canada and England, and to a lesser extent in the private sector of the United States economy.

Under the flexible work schedule concept, or "Flexitime" as it is popularly called, a "core time" during which all employees must be on the job is established. An additional period of "flexible time" is also established during which the employee may choose the additional hours he or she wishes to work to complete the 40-hour workweek within the limits established by the employing organization. As an example, a flexitime program might allow an employee to vary the length of a day by working 9 hours one day and 7 hours the following day as long as the total number of required hours is worked within the time limit specified.

No agency will be required to participate in the program, and each agency will submit proposals to the Commission only for those groups of employees for whom the agency feels such a test program would be appropriate.

The Commission will consider only those proposals from agencies which meet the criteria to be developed, and will approve only such proposals as it considers to be necessary to provide a representative sample of organizations of different functions and activity, size, and geographic location to permit valid conclusions to be drawn as to the impact of such work schedule variations for the Federal Government.

At the end of the 3-year test period, the Commission would submit its findings and recommendations to the President.

☐ REPORT ON MINORITY EMPLOYMENT. Minorities accounted for 64 percent of the total increase in nonpostal Federal employment during the period May 1973 to May 1974, the Civil Service Commission reported today in releasing employment data covering that period. Of the net increase of 19,982 persons, 12,665 were minority. The most significant increases in minority employment occurred in the white-collar schedules in which the number and percentage of higher level positions held by minorities also increased.

The gains reflect continuation of increases in minority employment that have occurred since issuance of Executive Order 11478 on equal employment opportunity in 1969 and enactment of the Equal Employment Opportunity Act in March 1972. Including the Postal Service, minorities held 21 percent of all full-time Federal jobs in May 1974.

The survey showed that blacks held 14.6 percent of all nonpostal Federal jobs in May 1974, up from 14.3 percent in May 1973, with an increase of 9,314 positions during the 1-year period. Spanish-speaking employment increased by 3,560 jobs during the period, rising from 3.2 to 3.4 percent of total nonpostal jobs. American Indian employment and Oriental American employment remained at the same percentage levels of 1 percent and 0.9 percent respectively.

☐ TOP-LEVEL PERSONNEL CHANGES. Raymond Jacobson has been appointed Executive Director, the Commission's top career post, succeeding Bernard Rosen in his retirement from the position. Mr. Rosen is now serving as adjunct professor in public administration at American University and will continue to be actively involved in efforts to improve the merit system. Mr. Jacobson formerly was Director of CSC's Bureau of Policies and Standards.

Joseph W. Lowell, Jr., became Assistant Executive Director in July, succeeding Irving Kator. Mr Lowell was formerly Deputy Director of CSC's Bureau of Training.

Carl F. Goodman became General Counsel when Anthony L. Mondello retired in July. Mr. Goodman formerly was Deputy General Counsel.

Arch S. Ramsay, formerly Director of Personnel for the Treasury Department, was selected as Director of the Commission's Bureau of Policies and Standards, succeeding Raymond Jacobson.

☐ THE NATIONAL CIVIL SERVICE LEAGUE has announced the winners of the 21st Annual Career Service Awards Program. Ten career Federal employees have been chosen for sustained excellence, and one for special achievement. For sustained excellence: Alfred L. Atherton, Jr., Assistant Secretary of State for Near Eastern and South Asian Affairs; Velma N. Baldwin, Assistant to the Director for Administration, OMB; Robert J. Blackwell, Assistant Secretary of Commerce for Maritime Affairs; Talcott W. Edminster, Administrator, Agricultural Research Service; Arnold W. Frutkin, Assistant Administrator for International Affairs, NASA; Vernon C. Johnson, Director, U.S. AID Mission to Tanzania; Porter M. Kier, Director, National Museum of Natural History, Smithsonian; John E. Thornton, Director, Field Operations Division, GAO; Rufus H. Wilson, Chief Benefits Director, VA; and John D. Young, Assistant Secretary, Comptroller, HEW. For special achievement: Edgar E. Hartwig, Research Agronomist, Agriculture.

☐ PAY PANEL HEARINGS. The President's Panel on Federal Compensation held public hearings in Washington August 6-7, following receipt and study of numerous recommendations from Federal agencies, employee organizations, institutions, and private citizens. Primary objective of the review is to ascertain any needed changes in Federal compensation policies and practices, with a goal of maintaining a system that is fair and equitable both to employees and the public. The panel will submit its recommendations to the President by November 1.

☐ DISPUTED HEALTH INSURANCE CLAIMS. Final regulations for resolving disputes between Federal employees, annuitants, and survivors covered under the Federal Employees Health Benefits program and their health insurance carriers have been published. All comments were considered carefully before the final regulations were adopted by the Civil Service Commission.

☐ MISLEADING NEWS REPORTS. A number of news stories relating to Civil Service Commission reports evaluating personnel management in many Federal agencies have included serious inaccuracies about the Commission and the agencies inspected. These stories are of considerable concern to the Commission because they misinform the public and thereby reduce citizen confidence in the integrity and effectiveness of the Government.

The Commission's evaluations have been generally characterized as "secret reports" that reveal widespread, willful violations of personnel laws and regulations and gross mismanagement by Federal agencies without corrective actions being required by the Commission or any progress made by agencies. Some accounts have also contained allegations that the reports reveal a "widespread attack on the merit system" and failure by the Commission to carry out its responsibilities.

The facts belie these assertions: The merit system was subjected to a serious attempt at subversion in recent years. The Civil Service Commission investigated and publicized that systematic assault, put a halt to the illegal practices, and began disciplinary actions against agency officials involved. That organized attack on the merit system ended; and the task now before Congress, the President, and the Commission is to assure that there are effective safeguards so that the system will not be vulnerable in the future.

☐LABOR INFORMATION. The Civil Service Commission's Labor Agreement Information Retrieval System unit has been awarded a Presidential management improvement certificate for excellence in the improvement of Government operations.

☐ IPA. More than 800 persons went on temporary job assignments under the mobility provisions of the Intergovernmental Personnel Act in Fiscal Year 1975, the U.S. Civil Service Commission has reported.

—Ed Staples

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